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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,506	03/28/2001	Dennis Sunga Fernandez	FERN-P001D	8534
22877	7590	10/31/2003	EXAMINER	
FERNANDEZ & ASSOCIATES LLP 1047 EL CAMINO REAL SUITE 201 MENLO PARK, CA 94025			VO, TUNG T	
			ART UNIT	PAPER NUMBER
			2613	14

DATE MAILED: 10/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

CR-R

MR

**Office Action Summary**

Application No.

09/823,506

Applicant(s)

FERNANDEZ ET AL.

Examiner

Tung T. Vo

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) Z.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Kennedy, III et al. (US 6,301,480).

Re claims 1, 12, and 14, Kennedy discloses an integrated tele-medicine system (fig. 1) using fixed (14 and 16 of fig. 1) and mobile processor (12 of fig. 1) communication for enabling remote medical care (58 of fig. 1, wherein the medical database is stored in the storage (58 of fig. 1), the system comprising:

a care-giver processor (16 of fig. 1) coupled to a packet-switched digital network (14 and 20 of fig. 1), the care-giver processor accessing a database including a representation of an identity and a location of at least one remote patient (12 of fig. 1, e.g. the remote patient is communicating the operator for retrieving the medical data from the central station (16 of fig. 1) over the data network (20 of fig. 1));

a mobile communications unit (12 of fig. 1) physically associated with a remote patient for monitoring at least one medical vital sign of such remote patient (56 of fig. 1), the mobile communications unit communicating such monitored vital sign to the care-giver processor through the digital network (14 of fig. 2);

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and a first detector coupled to the digital network and selected by the care-giver processor for observing the remote patient when such remote patient is determined by the care-giver processor to be located within a first observation range of the selected first detector (16 , 46, 44, and 56 of fig. 1, e.g. wherein the computer (56 of fig. 1) can display the image or data of the patient detected by sensors (12 of fig. 1))

Re claims 2, 13 and 15, Kennedy further discloses a second detector coupled to the digital network and selected by the care-giver processor for observing the remote patient when such remote patient is determined by the care-giver processor to have moved and subsequently located within a second observation range of the (12 of fig. 1, e.g. a global positioning system (GPS) location receiver may be disposed at or near mobile unit 12 to determine the location of an associated vehicle, and the mobile unit (12 of fig. 1) may also receive information from alarms, odometers, speedometers, engine sensors, accelerometers)selected second detector.

Re claim 3, Kennedy further discloses wherein a position signal being generated by the mobile communications unit (GPS receiver (12 of fig. 1)) coupled to the remote patient when such remote patient is moveable within an observable range, an observation signal being generated by the first detector uncoupled to such remote patient in the observable range (56 of fig. 1).

Re claim 4, Kennedy further discloses the mobile communications unit comprises an accelerometer (col. 3, lines 5-18).

Re claim 5, Kennedy further discloses a software agent associated with such remote patient accesses a database (col. 4, lines 43-59).

Re claim 6, Kennedy further discloses a portable identifier associated with such remote patient is used for communication therewith (col. 4, lines 60-67, other identifier of mobile unit (12 of fig. 1) to an associated work-station (56 of fig. 1)).

Re claim 7, Kennedy further discloses an object representation of such remote patient comprises an object name, an object identifier, an object group, an object query, an object condition, an object status, an object location, an object time, an object error, or an object image, video, or audio broadcast signal (figs.3-5, data access, service center ID).

Re claim 8, Kennedy further discloses the observable range is modifiable according to a rule set (col. 1, lines 10-33).

Re claim 9, Kennedy further discloses the remote patient is monitored temporarily using an extrapolated or last-stored positional or visual signal (56 of fig. 1).

Re claim 10, Kennedy further the cell phone (12 of fig. 1) is authenticated according to a voice pattern, a finger-print pattern, a handwritten signature, or a magnetic or smart-card signal.

Re claim 11, Kennedy further discloses an electronic file comprising a book, a greeting card, a news report, a sports report, a stock report, an artwork, a research database, a personal list, a recorded or live voice or music transmission, an electronic tool, or a commercial transaction is provided to the remote patient (col. 1, line 58 through col. 2, line 40).

3. Claims 1, 12, and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Fult (US 6,021,371) as shown in figures. 1, 4, 5 and 8.

4. Claims 1, 12, and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by de la Huerga (US 5,960,085) as shown in figures 1-6.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wailling (US 4,802,008) discloses a satellite communications system for medical related image.

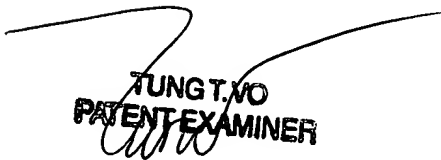
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***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung T. Vo whose telephone number is (703) 308-5874. The examiner can normally be reached on 6:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris. Kelley can be reached on (703) 305-4856. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.



TUNG T. VO  
PATENT EXAMINER

T.Vo

Tung T. Vo  
Examiner  
Art Unit 2613